

REMARKS

These remarks are in response to the Advisory Action mailed February 23, 2006. New claim 17 has been added, support for which may be found, for example, in paragraph [0009] on page 3 of the application, paragraph [0015] on page 6 of the application, and in the claims as originally filed. No new matter is believed to have been introduced.

I. REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Claims 9-16 stand rejected under 35 U.S.C. §112, first paragraph because the specification, while being enabling for predicting the inhibitory action of alcohols on cytochrome P-450 aniline p-hydroxylation and perhaps some other properties of alcohols or simple organic molecules, such as vapor pressure, allegedly does not reasonably provide enablement for predicting or determining the specific activity, chemical or physical property or function of compounds other than alcohols. Specifically, the Examiner alleges that Applicants have not established a correlation between sensor fingerprints and nucleotide or protein sequences. Applicants respectfully traverse this rejection.

Applicants bring to the attention of the Examiner MPEP 2107.03(I):

"A REASONABLE CORRELATION BETWEEN THE EVIDENCE AND THE ASSERTED UTILITY IS SUFFICIENT...An applicant can establish this reasonable correlation by relying on statistically relevant data documenting the activity of a compound or composition, arguments or reasoning, documentary evidence (e.g., articles in scientific journals), or any combination thereof....Instead, as the courts have repeatedly held, all that is required is a reasonable correlation between the activity and the asserted use. *Nelson v. Bowler*, 626 F.2d 853, 857, 206 USPQ 881, 884 (CCPA 1980).

Applicants respectfully submit that it has established reasonable correlation between sensor fingerprints and nucleotide or protein sequences by providing arguments and reasoning, documentary evidence, and combinations thereof.

The Examiner has acknowledged that the Applicants have demonstrated alcohol and numerous other chemical entities can be sensed and analyzed by the invention. The Examiner has further acknowledged that numerous sensor types and sensing modalities are known in the art (see, e.g., paragraph 0016 of the specification and page 6, last paragraph of the Final Office Action). Applicants have provided a reference by Drummond et al. ("Electrochemical DNA Sensors, Nature Biotechnology, 21(10):1192-1199 (2003)) as an example of DNA biosensors that use electronic readout/signal transduction (see, e.g., Figures 1 and 2). In addition, the reference teaches that combinations of sensor types that measure mass along with hybridization are useful for DNA identification (see, e.g., pg. 1193). Applicants have demonstrated the methods, devices and systems of the invention are capable of recognizing properties of alcohols or simple organic molecules as recognized by the Examiner at page 7 of the Final Office Action. Furthermore, Applicants have demonstrated the combination of sensor modalities utilizing similar polymers to detect analytes, the use of a combination of mass sensing with electrochemical sensors to detect and characterize DNA. The references demonstrate that one of skill in the art would be capable of practicing the invention without undue experimentation. It appears that the Examiner is asking for prior art that demonstrates Applicant's invention; however, by the Examiner's own search such prior art has not been identified. The specification, the Examiner's admissions, and corroborating evidence of sensor modalities (e.g., transducer-types and analyte-

types) support Applicant's invention. Accordingly, Applicants respectfully request withdrawal of the rejection.

Please charge any required fee for consideration of this response or credit any overpayment to Deposit Account No. 02-4800, referencing the Attorney Docket No. above.

Respectfully submitted,

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By: _____


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